

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 UNITED STATES OF AMERICA)
4)
5 vs.) Criminal Action
6)
7 HERZZON SANDOVAL,) No. 15-10338-FDS
8 EDWIN GUZMAN,)
9 CESAR MARTINEZ,)
10 ERICK ARGUETA LARIOS,)
11 Defendants)

12
13 BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

14
15 JURY TRIAL DAY 3

16
17 OPENING STATEMENT OF GOVERNMENT ONLY

18
19 John Joseph Moakley United States Courthouse
20 Courtroom No. 2
21 1 Courthouse Way
22 Boston, MA 02210

23 February 1, 2018

24 Valerie A. O'Hara
25 Official Court Reporter
John Joseph Moakley United States Courthouse
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1 homeboys of the clique.

2 Each clique operates more or less independently under
3 the larger MS-13 umbrella. They make periodic reports to MS-13
4 in El Salvador and communicate with other cliques locally and
5 regionally in the United States. In many ways, the MS-13
6 clique is like a local McDonald's Restaurant independently
7 owned and operated but part of a larger corporate enterprise,
8 and like McDonald's markets itself with recognizable colors,
9 logos and food names, MS-13 markets itself with colors,
09:31AM 10 numbers, hand signs, tattoos and gang names reflecting the
11 gang's purpose, origins and mission.

12 MS-13 members wear the colors blue and white
13 representing the country flags of El Salvador, Honduras and
14 Guatemala. They use the number 13 representing M, the 13th
15 letter of the alphabet and the number 503, the area code for
16 El Salvador.

17 They flash the gang's hand signs representing the
18 letters M and S and the number 13 and the devil's horn to greet
19 each other and make themselves known to rivals, and many
09:31AM 20 literally brand themselves with MS-13 tattoos.

21 MS-13 members also take new names when they join the
22 gang, and you will hear those gang names used throughout this
23 trial. Herzzon Sandoval is Casper. Edwin Guzman is Playa.
24 Cesar Martinez is Checha. Edwin Guzman is Lobo.

25 MS-13 also has rules, and those rules reflect its

1 violent purpose, attack and kill rivals on sight, kill
2 informants, beat or kill members who disobey or disrespect the
3 gang. You will hear evidence in this trial that MS-13 members
4 did in fact attack and kill rival gang members, that they
5 wanted to kill informants, and that they did beat members who
6 broke MS-13 rules.

7 In other words, these rules were not mere talking
8 points, they were calls to action for all MS-13 members. MS-13
9 demands absolute commitment and loyalty from its members. A
09:33AM 10 person doesn't just casually join MS-13 and show up at the club
11 whenever he feels like it. No, joining MS-13 is a commitment.
12 It's a process with prospective members moving up the ranks by
13 proving that they are all in for the gang, meaning that they
14 are ready, willing and able to take action and fulfill the
15 gang's violent purpose.

16 MS-13 rewards those who prove themselves worthy with
17 violence. The gang initiates new members with the 13-second
18 beating by members of its own clique. It also punishes those
19 who break gang rules by beating them for 13 seconds. During
09:33AM 20 the trial, you will see a recording of an MS-13 initiation
21 ceremony, which they call a jump-in or a beat-in that took
22 place at an Eastside or ESLS clique meeting. Casper, Playa,
23 Checha, and Lobo were all at that meeting.

24 Casper, the clique's leader, decided which homeboys
25 present would do the beating, while Playa counted out loud to

1 13. You will also hear recordings of MS-13 members being
2 punished at clique meetings with 13-second beatings, and,
3 again, some or all of the defendants were present at those
4 meetings.

5 These and other recordings made by a cooperating
6 witness who infiltrated MS-13 will give you a front row seat to
7 the inner workings of the gang and the violence that was
8 committed and glorified on behalf of MS-13.

9 My name is Kelly Lawrence. Seated at counsel table is
09:34AM 10 Christopher Pohl. We represent the government in this case.
11 I'm here now just to give you an overview of the evidence
12 you'll hear at the trial so that you'll better understand the
13 facts and evidence that you'll have in light of the law that
14 the Judge will give you at the end of the case.

15 I said before that this trial is about MS-13, and it
16 is because MS-13 is a criminal enterprise engaged in
17 racketeering, and all four of these defendants on trial agreed
18 to be part of it, so you'll be hearing a lot about MS-13, the
19 Eastside clique, other local cliques and MS-13 members during
09:35AM 20 the coming weeks.

21 You'll also be hearing, of course, a lot about these
22 four defendants, what they did and what they said. In fact,
23 you'll actually get to see what they did and hear what they
24 said because it was caught on tape. The defendants' own words
25 and actions captioned on tape when they thought no one else was

1 listening. Those recordings are in Spanish, but you'll have
2 English transcripts to read, and you'll also get to see some
3 video clips as well.

4 The recordings were made by what is called a
5 cooperating witness. During this investigation, the FBI
6 identified an individual that it believed could infiltrate
7 MS-13 and collect evidence of the gang's criminal activities.
8 For that to work, the individual had to make the gang believe
9 that he was one of them, that he was ready, willing and able to
09:36AM 10 commit to the gang and its violent mission, and it worked.

11 The cooperating witness succeeded in earning the trust
12 and the respect of the MS-13 members, and they felt comfortable
13 enough with him to talk freely about the gang and its criminal
14 activities. He was so successful, in fact, that these
15 defendants jumped him into their clique. They made him an
16 Eastside homeboy. That gave the cooperating witness an
17 all-access back stage pass to the MS-13 criminal enterprise.
18 Those recordings made by the cooperating witness capture the
19 inner workings of MS-13, and they will leave you with no doubt
09:36AM 20 that all four of these defendants are guilty of the charged
21 racketeering conspiracy.

22 I've already told you a little bit about MS-13, the
23 gang, the enterprise, and now I want to focus on these four
24 defendants, Casper, Playa, Checha, and Lobo and their clique,
25 ESLS.

1 You'll hear that ESLS was a mature clique. It had
2 been around for awhile, and its leaders, Casper and Playa, and
3 its members, Checha, Lobo and others were old. Typically, with
4 maturity comes age, with maturity and age comes respect. These
5 defendants thought so. They thought they had earned respect
6 from MS-13 for the killings and violence that they had
7 committed in the past.

8 At an ELS clique meeting in October, 2015, Casper told
9 the members present, "There are many of us here who have
09:37AM 10 killed, homie, and we deserve their respect, and not to have
11 them trying to pilot us," but you will hear that MS-13 doesn't
12 rest on its laurels, it demands action that its members
13 continue to hunt down, kill and attack rivals, that it continue
14 to ferret out informants, keep members in line and protect
15 MS-13 turf.

16 The defendants knew this because they were told by
17 leaders in El Salvador that ESLS had to get with the program
18 literally, that they had to follow the rules and orders of the
19 regional East Coast Program, that they had to keep committing
09:38AM 20 violence and keep paying money to support the mission of MS-13,
21 and if they didn't, the MS-13 leadership would issue what's
22 called a green light in order to kill every member of the ESLS
23 clique.

24 Again, this is Casper speaking at the October 24, 2015
25 meeting. What they said is that yes, they might actually

1 decide to give the green light for the clique, but, bullshit,
2 you can't do that because the clique here is already
3 established, homeboy.

4 In other recordings, you'll hear the defendants talk
5 about how they should respond to El Salvador's demands, tough
6 talk about quitting the East Coast Program, joining another
7 program or starting their own, but what you won't hear is any
8 talk about quitting MS-13. Instead, you'll hear that the
9 defendants were fully committed to MS-13.

09:39AM 10 The recording made on December 6, 2015, "It's the same
11 barrio, MS-13. The dude is going to the MS-13 barrio, homeboy,
12 and we belong to the MS-13." Feeling their age and pressure
13 from El Salvador, the defendants ramped up their recruiting
14 efforts for the Eastside clique.

15 In December, 2015, a young member of the Everett Loco
16 Salvatrucha clique named Animal brutally murdered a rival gang
17 member in broad daylight on the streets of East Boston. When
18 the defendants heard that Animal was unhappy with its own
19 clique because it had refused to promote him to homeboy for the
09:39AM 20 murder, ESLS scooped him up.

21 In early, December, 2015, Casper invited Animal and a
22 few of his young friends to come check out ESLS. "As I was
23 explaining, homie, come by this area, homie, you'll meet all of
24 us, you know, you'll find out what we think as a group, homie,
25 and if your way of thinking coordinates with ours, then it's

1 great and everything will be solid, and we'll see what
2 decisions we will make because it's not only my decision, they
3 all have to check you out, too, you know."

4 During the next several weekends, Animals and his pals
5 checked out ESLS, and ESLS checked out them. Eastside homeboys
6 Tigre and Brujo -- their pictures are on the chart -- took
7 these young guys out on missions hunting for rivals to attack
8 and kill. By MS-13 standards, these missions were widely
9 successful, Animal and his crew committed two attempted murders
09:40AM 10 during his evaluation period, and he bragged about both of them
11 on tape, and Brujo and Tigre reported these violent acts to
12 Casper to make sure that Animal and young friends would get
13 credit for what they had done.

14 Casper, Playa, Checha and Lobo were also present for
15 the next Eastside meeting in early January, 2016. The primary
16 topic of that meeting was Animal. This meeting, like many
17 others, was recorded on audio and video, so you'll get a
18 transcript of what was said, and you'll see clips, video clips
19 of what they did.

09:41AM 20 You'll hear that the defendants all wanted Animal to
21 join ESLS so they could take credit for his murder. As I
22 explained earlier, the murder of a rival gang member is like
23 the MS-13 golden ticket. It earns the killer and his clique
24 respect from other MS-13 homeboys and cliques, and it proves
25 that you are solid with the gang.

1 Remember, before the defendants brought Animal into
2 the Eastside clique, ESLS was on shaky ground. The leaders in
3 El Salvador were unhappy with Casper's leadership and the
4 clique's failure to pay dues and report violence, so much so
5 that they were thinking of issuing a green light or an order to
6 kill the entire clique.

7 Animal was the answer to that problem, and all of the
8 Eastside homeboys knew it. Jumping Animal into the clique,
9 taking credit for his murder and recruiting the young friends
09:42AM 10 who were hungry to prove themselves on the street with acts of
11 violence would breathe new life into ESLS.

12 At that January meeting, Casper spoke to the assembled
13 members there, "now, look, I'm going to tell you something,
14 homie, we need the new generation of Eastside, and thanks for
15 the wisdom that we have gained over the years, homie, we have
16 to pass it along, dude, so that the new Eastside clique can
17 come and not think badly that we're going to fuck them over
18 because, shit, we are the Maras, and the fuckers here will fuck
19 it up, but what I am trying to say, that you guys are going to
09:42AM 20 be the next generation, that's what he's talking about, the
21 next generation of ESLS."

22 During this January clique meeting, you'll hear
23 Casper, Playa, Lobo and other Eastside homeboys strategizing
24 ways to hide Animal from the police. They planned to rent him
25 a room in a safer neighborhood that didn't have as much police

1 heat on it investigating the murder he had committed, they
2 planned to bring him food so he could avoid being out on the
3 streets. They told him to keep a low profile and deny his
4 MS-13 membership and the murder to any civilians or police that
5 he talked to, but if anyone from MS-13 asked, he was to say
6 that he did the murder, take credit for the murder, and, more
7 importantly, say that he did it for the Eastsides.

8 The gang also talked of getting Animal a job so he
9 could pay his own way and of smoothing things over with the
09:43AM 10 Everett clique, who was none too happy about having Animal
11 taken away from them.

12 Finally, at the end of the clique meeting, Casper
13 ordered Animal jumped in to the clique with a 13-second
14 beating. Casper identified which homeboys would do the
15 beating, and Playa counted to 13. You will see a video of that
16 beating later in the trial.

17 During the coming weeks, you'll hear more evidence of
18 the defendant's MS-13 membership and activities. You'll hear
19 about other murders and attempted murders committed by ESLs
09:44AM 20 homeboys and other MS-13 members. You'll hear about clique
21 guns that members used on missions to attack rivals and to
22 defend themselves from rival attacks.

23 You'll hear about Eastside members paying dues and
24 using money to pay human smugglers or coyotes to bring deported
25 clique members back to the United States. Some of this

1 evidence, as we've already talked about, will be video clips
2 and transcripts of the defendant's own words recorded by the
3 informant who infiltrated the gang. Some of it will be
4 physical evidence, like guns and pictures of crime scenes.
5 Some of it will be testimony from a witness who has expertise
6 and experience investigating MS-13, and he can tell you about
7 the gang's history, purpose, its operation, structure, symbols,
8 leadership and the like.

9 Some of it will be testimony from witnesses who
09:45AM 10 participated in the investigation of the gang's criminal
11 activities, and they can tell you about the steps they took to
12 identify these individuals and gather evidence of their
13 criminal activities, and some of it will be testimony from
14 MS-13 members who belonged to the defendant's own clique, who
15 committed violent crimes and who have pled guilty and admitted
16 responsibility for those crimes.

17 These cooperating witnesses were established Eastside
18 clique members. They were homeboys, just like the defendants
19 in this case. They knew the defendants for years. They knew
09:45AM 20 who they are, they will tell you who they are, what they belong
21 to, and what they did.

22 Now, these witnesses, these MS-13 members, they
23 committed violent crimes, and one of them engaged in drug
24 trafficking. Their records are far from pristine, but they
25 will tell you about what they did, they will tell you who they

1 did it with, and they will tell you why. In short, they will
2 give you a view of MS-13 from the inside, and you will see that
3 their testimony matches up with the other evidence you'll hear,
4 the recordings, the physical evidence, and the testimony of
5 other witnesses.

6 I want to switch gears for a minute and talk to you
7 about the charges in this case. The Judge explained to you
8 earlier, and I will not repeat it word for word but just a
9 quick summary of all four defendants. Casper, Playa, Casper,
09:46AM 10 and Lobo are charged with conspiracy. Two defendants, Checha
11 and Lobo, are also charged with conspiracy to distribute
12 cocaine. The Judge will give you the law at the end of the
13 case, but I want to talk just about a few key terms that help
14 you evaluate all of the evidence you are about to hear.

15 First, "Conspiracy." Conspiracy is just an agreement
16 to commit a crime. In this case, all four defendants agreed to
17 join MS-13 and commit the crime of racketeering. By there
18 agreeing to commit the crime of racketeering, the defendants
19 simply agreed that some member or some members of the MS-13
09:47AM 20 conspiracy would commit two or more racketeering acts. The
21 defendants themselves did not actually have to murder or
22 attempt to murder or distribute drugs to be guilty of this
23 conspiracy.

24 "An Enterprise." An enterprise is essentially an
25 organized group of people working together over time to a

1 common goal. MS-13 is an enterprise. It has an organized
2 structure, membership that changes a bit from time to time but
3 has with leadership, it has rules and it has a mission.

4 "Interstate Commerce." The activities of MS-13
5 affected interstate commerce. That is an essential element of
6 this crime. You'll hear that the defendant made phone calls to
7 MS-13 members in El Salvador to discuss gang business and
8 activities. You'll hear that the defendants collected money
9 from clique members to pay human smugglers to bring deported
09:48AM 10 clique members back to the United States. You'll also hear
11 evidence of guns that were manufactured in other states and
12 countries that ended up in the hands of the defendants and
13 other ESLS members here in Massachusetts.

14 "Racketeering." There are a number of different
15 activities that can be included in racketeering. The ones
16 you'll hear about in this trial primarily are murder, attempted
17 murder and drug trafficking.

18 You'll hear that members of MS-13 committed at least
19 two acts of murder, attempted murder and drug trafficking or a
09:48AM 20 combination of those on behalf of the MS-13 enterprise.

21 Separate from the racketeering conspiracy, Checha and Lobo are
22 charged with a drug distribution conspiracy. This means that
23 they agreed with one or more other people to distribute
24 cocaine, and they took some affirmative step to make that
25 happen.

1 In this case, the FBI used an investigative technique
2 called a drug protection detail. Essentially the FBI through
3 its cooperating witness offered the defendants an
4 opportunity -- sorry, the defendants and other members of
5 MS-13, as you'll hear, the opportunity to get paid for
6 protecting kilogram-size shipments of cocaine.

7 The evidence will show on separate occasions Checha
8 and Lobo both jumped at this opportunity. They thought they
9 were being paid \$500 to protect the delivery of kilograms of
09:49AM 10 cocaine from a source in Massachusetts to a buyer in
11 New Hampshire.

12 In fact, the FBI was in control of the entire
13 operation from start to finish. You will hear that both of the
14 defendants on tape in the days leading up to the drug deals
15 confirming that they were ready, willing and able to commit
16 this crime. Checha agreed to and did distribute 1 kilogram of
17 cocaine in February of 2014 and Lobo agreed to and did
18 distribute 5 kilograms of cocaine in December of 2014.

19 You'll also hear that other Eastside homeboys,
09:50AM 20 including one of those cooperating witnesses I talked about
21 earlier and other MS-13 members from different local cliques
22 participated in these drug protection details. They agreed to
23 do the deal, they got paid to do the deal, and they
24 participated in the deal. Those are the charges.

25 I talked about some of the evidence that relates to

1 those charges, and you will hear that and more during the
2 trial. That evidence will prove that Checha and Lobo agreed to
3 distribute kilogram quantities of cocaine, and that evidence
4 will prove that Casper, Playa, Checha, and Lobo were members of
5 MS-13, that MS-13 was a criminal enterprise, and that all four
6 defendants agreed that some member or members of that MS-13
7 conspiracy would commit two or more racketeering acts.

8 At the end of this trial, my colleague is going to
9 stand before you, and he's going to ask you to return the only
09:51AM 10 verdict that is consistent with the evidence and the law, the
11 evidence you're about to hear and the law you'll be given by
12 the Judge, and that verdict is guilty. Thank you.

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript was
recorded by me stenographically at the time and place aforesaid
in Criminal Action No. 15-10338-FDS, UNITED STATES vs.
HERZZON SANDOVAL, et al., and thereafter by me reduced to
typewriting and is a true and accurate record of the
proceedings.

Dated this 14th day of February, 2018.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER